UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/749,007	12/30/2003	Scott F. Singer	03-1116	8390

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EXAMINER
GRAHAM, CLEMENT B

ART UNIT	PAPER NUMBER
3692	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

	Application No.	Applicant(s)
Office Action Summary	10/749,007	SINGER ET AL.
	Examiner	Art Unit	
	Clement B. Graham	3692	

-- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address* --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>30 December 2003</u>.

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>1-20</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>1-20</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.

5)☐ Notice of Informal Patent Application

6)☐ Other: _____.

DETAILED ACTION

Double Patenting

1.   A rejection based on double patenting of the "same invention" type finds its support in the language of 35 U.S.C. 101 which states that "whoever invents or discovers any new and useful process ... may obtain a patent therefor ..." (Emphasis added). Thus, the term "same invention," in this context, means an invention drawn to identical subject matter. See *Miller v. Eagle Mfg. Co.*, 151 U.S. 186 (1894); *In re Ockert*, 245 F.2d 467, 114 USPQ 330 (CCPA 1957); and *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970).

2.   A statutory type (35 U.S.C. 101) double patenting rejection can be overcome by canceling or amending the conflicting claims so they are no longer coextensive in scope. The filing of a terminal disclaimer <u>cannot</u> overcome a double patenting rejection based upon 35 U.S.C. 101.

3.   Claims 1, provisionally rejected under 35 U.S.C. 101 as claiming the same invention as that of claims 1,   of copending Application No. *1,141, 606. This is a <u>provisional</u> double patenting rejection since the conflicting claims have not in fact been patented.

DETAILED ACTION

Claim Rejections - 35 USC § 102

4.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5.   Claims 1-20, are rejected under 35 U.S.C. 102(e) as being anticipated by Johnson et al U.S. Pub: 20010037275 A1.

As per claim 1,   Johnson discloses a method for implementing an automated trading strategy relating to a tradeable

object being traded in an electronic exchange, the method comprising:

calculating a first estimated price that could be obtained for an order for a first quantity

of a first tradeable object, the first estimated price being calculated based on market

information relating to the first tradeable object(see column 6 para 0100and para 0116
and para 0121 and 0125) taking a first action of a first automated trading strategy based
on the first estimated price;

calculating a second estimated price that could be obtained for an order for a second
quantity of the first tradeable object, the second estimated price being calculated based
on market information relating to the first tradeable object and further based on the first
quantity(see column 6 para 0100and para 0116 and para 0121 and 0125) and

taking a second action of a second automated trading strategy based on the second
estimated price. (see column 6 para 0100and para 0116 and para 0121 and 0125).

As per claim 2,   Johnson discloses wherein the second action comprises sending an
order to buy or sell a second tradeable object to an electronic exchange. (see column 6
para 0100and para 0116 and para 0121 and 0125).

As per claim 3,   Johnson discloses wherein the order to buy or sell the second
tradeable object has a price that is calculated based on the second estimated price and
a ratio. (see column 6 para 0100and para 0116 and para 0121 and 0125)

As per claim 4,   Johnson discloses further comprising the step of detecting a fill of
the order, and in response, sending an offset order to buy or sell the first tradeable
object.

As per claim 5,   Johnson discloses wherein the offset order has a price that is equal
or substantially equal to the second estimated price. (see column 6 para 0100and para
0116 and para 0121 and 0125)

As per claim 6,   Johnson discloses wherein the step of calculating a second
estimated price which is based on the first specific quantity is performed by reducing an
available quantity of the first tradeable object based on the first quantity. (see column 6
para 0100and para 0116 and para 0121 and 0125).

As per claim 7,   Johnson discloses further comprising the step of recalculating the
first estimated price and the second estimated price when market conditions change.
(see column 6 para 0100and para 0116 and para 0121 and 0125).

As per claim 8,   Johnson discloses further comprising the step of recalculating the
first estimated price and the second estimated price when an event occurs that is

different that a change in market conditions. (see column 6 para 0100and para 0116 and para 0121 and 0125).

As per claim 9, Johnson discloses wherein the event comprises a change in priority, wherein the event comprises canceling one of the first and second automated trading strategies, or wherein the event comprises a third automated trading strategy calculating a third estimated price. (see column 6 para 0100and para 0116 and para 0121 and 0125).

As per claim 10, Johnson discloses wherein the first automated trading strategy and the second trading strategy are trading strategies associated with one trader. (see column 6 para 0100and para 0116 and para 0121 and 0125).

As per claim 11, Johnson discloses 11. The method of claim 1 wherein the first automated trading strategy is associated with a first trader and the second trading strategy is associated with a second trader that is different from the first trader. (see column 6 para 0100and para 0116 and para 0121 and 0125).

As per claim 12, Johnson discloses a computer readable medium having program code recorded thereon for causing a microprocessor to execute the method of claim 1. (see column 6 para 0100and para 0116 and para 0121 and 0125).

As per claim 13, Johnson discloses a computer-based method for coordinating trading tools that are used to trade tradeable objects in an electronic trading environment, the method comprising:
receiving a first request by a first trading tool, wherein the first request represents a willingness to lean on a tradeable object in executing a first trading strategy(see column 6 para 0100and para 0116 and para 0121 and 0125) and allocating a first portion of the tradeable object associated with the first request to the first trading tool, wherein the allocated first portion of the tradeable object is used by the first trading tool in formulating the first trading strategy. (see column 6 para 0100and para 0116 and para 0121 and 0125).

As per claim 14, Johnson discloses wherein the allocated first portion of the tradeable object is used by the first trading tool in formulating the first trading strategy by calculating an estimated price that could be obtained for a potential order for the first

portion of the tradeable object. (see column 6 para 0100and para 0116 and para 0121 and 0125).

As per claim 15, Johnson discloses further comprises sending a first order for a second tradeable object, wherein the first order has a price that is calculated based on the estimated price. (see column 6 para 0100and para 0116 and para 0121 and 0125).

As per claim 15, Johnson discloses further comprises sending the an order for the first portionof the trading object when the first order for the second tradeable object is filled. (see column 6 para 0100and para 0116 and para 0121 and 0125).

As per claim 17, Johnson discloses further comprising:
receiving a second request by a second trading tool, wherein the request represents a willingness to lean on the tradeable object in executing a second trading strategy; and allocating a second portion of the tradeable object associated with the second request to the second trading tool, wherein the allocated second portion of the tradeable object is used by the second trading tool in formulating the second trading strategy. (see column 6 para 0100and para 0116 and para 0121 and 0125).

As per claim 18, Johnson discloses wherein the first trading strategy and the second trading strategy comprise sessions of a trading tool. (see column 6 para 0100and para 0116 and para 0121 and 0125).

As per claim 19, Johnson discloses a computer readable medium having program code recorded thereon for causing a microprocessor to execute the method of claim 13. (see column 6 para 0100and para 0116 and para 0121 and 0125).

As per claim 20, Johnson discloses a method for implementing an automated trading strategy, the method comprising:
taking a first action of the automated trading strategy based on market information relating to a first tradeable object and further based on the extent that a different automated trading strategy is leaning on the first tradeable object. (see column 6 para 0100and para 0116 and para 0121 and 0125).

Conclusion

6. The prior art of record and not relied upon is considered pertinent to Applicants disclosure.

Liddy Eder (US Patent 6, 026, 388) teaches user interface and other enhancements for natural language information retrieval system and method.

Kohorn US PATENT: 5, 508, 731) teaches generation of enlarged participatory broadcast audience.

7.   Any inquiry concerning this communication or earlier communications from the examiner should be directed to Clement B Graham whose telephone number is 703-305-1874. The examiner can normally be reached on 7am to 5pm.

8.   Any inquiry concerning this communication or earlier communications from the examiner should be directed to Clement B Graham whose telephone number is 703-305-1874. The examiner can normally be reached on 7am to 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hyung S. Sough can be reached on 703-308-0505. The fax phone numbers for the organization where this application or proceeding is assigned are 571-273-8300 for regular communications and 703-305-0040 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.

CG

June 18, 2007

FRANTZY POINVIL
PRIMARY EXAMINER

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